Now Only

AGUSTUS T. POST TO REMAIN MARRIED

Appellate Court Refuses to Disentangle Knots of Wife's Former Alliances.

MRS. POST ALONE CAN ACT

she Refuses to Make Use of Her Technical Situation-Husband Must Stand It.

A matrimonial case involving three marriages which the Appellate Division of the Supreme Court said yesterday preented unique questions of law was before the court in the suit of Augustus T. Post, the former banker and balloonist, to annu his marriage to Emma T. Post on the ground that when he married her in 1898 had a husband then living. Mrs. Post had been married twice before and the court decides that while a decree anuling her marriage to ner second husband might be held invalid and her third marriage to Post of no effect, Mrs. Post is the only one before the court who can move to have that done, and since she relies upon that decree for her defence to the resent action it must now be upheld. the court accordingly affirms a verdict or Mrs. Post in the lower courts.

Mrs. Post was first married in 1871 to John S. Keaghey and lived with him in Louisiana and Texas until 1878, when she left her husband and went to New Or-The opinion in the Post case, writen by Justice McLaughlin, says that she had no intention of returning to Keaghey and in 1882 he sued for divorce in Texas on the ground of abandonment and got a decree by default. She came to New York and in 1895 married one Holliday. She sued him for separation on the ground of abandonment, but he replied with a ounter claim for annulment on the ground that she had never been divorced legally from Keaghey. This contention was susained by Justice Russell in 1898 and a judgment was entered annulling the

The marriage to Post occurred shortly afterward and the parties lived together until 1907. Post then sued for anulment on the ground that Keaghey, whose diforce from the defendant was declared invalid in the Holliday case, was still living and her marriage to him was in full

The lower court dismissed Post's complaint and found that Mrs. Post was free to marry when she became his wife. Justice McLaughlin, who writes the unanimous opinion of the Appellate Division, says that the defendant had acquired a separate domicile in Louisiana when Keaghey sued her in Texas and that when she failed to appear after having actual notice the Texas decree was valid. This law was laid down by the Supreme Court of the United States in the Atherton case, but at the time the Holliday suit was tried here before Justice Russell the Atherton case had been decided by the Court of Appeals of New York and the ruling of that court was reversed by the United States Supreme Court.

The decree of anulment granted by Justice Russell was valid at the time, but because of the subsequent ruling by the highest court it could have been upset had either of the parties taken the necessary action. says that the defendant had acquired a

had either of the parties taken the necessary action.

Justice McLaughlin accordingly decided that since the Keaghey decree must be held valid, the only remaining question is whether Mrs. Post's marriage to Holliday was dissolved legally, and whether she was not really still the wife of Holliday when she married Post. Justice McLaughlin says that the validity of the Holliday decree seems to be establishes beyond question by the decree of the New York courts, which was upon the ground that the defendant was still the legal wife of Keaghey. The court says further:

ment was erroneous, and the defendant's marriage with Holliday should not have been annulled. The judgment, however, was not appealed from, and remains and is just as binding now as the day it was rendered. It conclusively established the annulment of her marriage with Holliday."

with Holliday."

Post contended on his appeal that if his wife wished to avail herself of this judgment as annulling her marriage to Holliday she could only do so by accepting as an adjudication that she was never divorced from Keaghey, and Post would still be entitled to his decree. In reply the Appellate Division says that Mrs. Post is entitled to offer in her defence both the Keaghey and Holliday decrees and both must now be considered by the court.

Justice McLaughlin decides that the Keaghey decree must be upheld because of the United States Supreme Court ruling in the Atherton case, and the Holliday judgment is equally conclusive that she was no longer the wife of Holliday, 'and so long as that judgment stands neither the appellant, this court nor

neither the appellant, this court nor any one else can disregard it.

The Holliday judgment is erroneous and the defendant's position is, to say the least, unique, and it may be if by her act she could alter the effect of the decree, there would be some force in the appellant's contention. But she cannot do this. That judgment can only be set said in a disease appearance. do this. That judgment can only be set aside in a direct proceeding brought for that purpose, and this defendant, the only party to it now before the court, not only does not seek to set it aside but, on the contrary she, relies on it. The fact that she does rely upon this judgment cannot reinstate her as the wife of Keaghey, or lessen, to the slightest extent, the effect of the Texas decree."

LEVY MUST PAY HIS ALIMONY.

Defied Court by Marrying in Another State No Relief for Him Here.

Abraham J. Levy, formerly a bookmaker

after his wife divorced him in 1908, cannot have his former wife's alimony reduced n \$300 to \$150 a month under a ruling he Appellate Division of the Supreme reversing a lower court order.

reversing a lower court order.

applying for the reduction Levy said the income as a bookmaker has been yeed and while he used to have an e of \$24,000 a year it has since been of straight for the tried to continue the said said set that and \$80,000 more in Wall in marginal speculation.

y alleged that his former wife is now a generally as the wife of Henry a the theatrical costumer, and has lied with Dazian is reputed to be worth than \$1,000,000. He believes that it is now supporting Mrs. Levy.

If the theatrical costumer is the that the same supporting Mrs. Levy replied that she believed her thusband still keeps a gambling house west Forty-fourth street and is inded in one-in Saratoga in partnership Max Blumenthal and W. J. Mackey, digits that she has been in the comof Dazian frequently, but says he supported her.

Appeliare Division reversed the

Division reversed the day agreement under which she dower interest in \$100,000 lestate and Levy agreed to a month for life. The agree-royided that this sum should the decree of divorce as the

e Division says that while t modify its decree the de-ia few days after the final red, in disregard, if not in contracted a second mar-r State. He cannot avoid imposed upon him by his he decree of the court by

COFFYN FLIES FIVE TIMES,

most Hits a Freight Barge.

Frank Coffyn after making five flights in his Wright hydro-aeroplane, in three of which he carried passengers, over New York harbor yesterday had a close shave in his sixth trip out, when he took along his seven-year-old son, Kingsland. barely avoiding a collision with a freight

His first passenger was Mrs. Coffyn, the second was Deputy Dock Commis-Rosewell Delamater. Coffyn was about to hitch his big biplane to the raft and quit for the day when his young son asked to be taken up. After a family conference it was decided to give the youngster a ride, provided some one would go along to see that he did not fall out of the seat.

Albert Levine, Coffyn's manager, agreed to see to that. Mrs. Coffyn bundled up the boy and gave him a skating cap exactly like the one Dad wears and buckled a life preserver over his gray overcoat. He was all ready and was in a big hurry to get his ride.

Mr. Levine got into the passenger seat and took young Coffyn on his knee. The big white filer slid off the raft and ploughed along the water for about 100 yards. It became evident to the spectators that there would be a collision with a freight barge unless the aviator left the water or made a skilful turn.

Coffyn found that his engine had suddenly gone wrong and he made a quick turn to the right, but he was so close to the barge that the three passengers were pretty well wet by the water kicked up as the hydro-aeroplane got out of range.

Coffyn continued to drive the machine sioner B. F. Cresson, Jr., and the third

range.

Coffyn continued to drive the machine along the water, but it would not lift, and he swung back to the Battery. The machine was anchored at Pier A and the youngster stepped out happy, but somewhat disappointed. He would have liked to have gone up.

MONTANI PLANNED HOLDUP.

Said to Have Told Albrozza to Get Mer to Blackjack Bank Messengers.

Sentence on Edward E. Kinsman, who pleaded guilty to participation in the \$25,000 taxicab holdup of two messengers of the East River National Bank on February 15, which was to have been pronounced yesterday by Judge Crain, was postponed until next Friday at the request of the District Attorney, who wants to use Kinsman as a witness against Geno Montani, the chauffeur. Montani's case Montani, the chauffeur. Montani's case probably will come up before Justice Seabury on Monday. It may be adjourned to give the police opportunity to make two more arrests in the case.

A full confession by Jess Albrozza was handed to Assistant District Attorney Nottyesterday by Henry J. and Frederick E. Goldsmith, his attorneys. He says that Montani suggested the job and asked Albrozza to get several "good reliablemen" together to put it through.

Albrozza says that acting on Montani's suggestion. he got Kinsman, Splaine, English Scotty, Matteo, Arbano, Dutch, Joe the Kid and two others, and that the whole robbery was rehearsed in Central Park before it actually was pulled off.

Albrozza is ready to plead guity, it is understood, but Mr. Nott prefers to put him on the stand as a witness against Montani first.

STEP IN DYNAMITE CASE.

Forty-six Defendants Will Be Arraigned in Indianapolis Tuesday.

Indianapolis, Ind., March 8 .- Fortysix of the fifty-four defendants in the alleged dynamiting conspiracy are expected by Federal officials to-day to be arraigned in the Federal Court here next Tuesday.

District Attorney Miller, in charge of the cases, said to-day that none of the five indicted men who are involved in dynamiting proceedings in the California courts would be here for arraign-ment. The removal of John R. Car-roll and Edward Phillips of Syracuse. N. Y., has been delayed by their fight against extradition to the Indianapolis Federal district and they will not be here. John J. McCray of Wheeling, W. Va., has not yet been arrested.

the men are arraigned. SUIT TO GET FELTMAN'S.

Descendants of an Old Coney Islander Want the Property and \$250,000 Damages.

James E. Morey, Mrs. Nina Hayes and Mrs. Elizabeth B. Pine, children of Dr. John Gardner Morey and Mrs. Elizabeth Morey, have filed suit in the Kings County the real owners of the property at Coney Island occupied by Feltman's restaurant and baths. They ask for the possession of the premises and \$250,000 damages for the value of the use and occupation of the property since April, 1908, the date when the property was first occupied by the Teltmans.

This suit is the fifth of a series of the property was first occupied by the Island and the property was first occupied by the Island and the property was first occupied by the Island and Island and

Feltmans.
This suit is the fifth of a series of similar actions started against various land holders at Coney Island by persons who assert that they have rights in lands there that descended to them through Barent Johnson, who they say held legal title to nearly all of Coney Island in 1727.

FIVE KILLED IN C. P. R. WRECK.

Freight Smashes Into Passenger Train After Mixup in Orders.

OTTAWA, Ont., March 8 .- Five person were killed and as many injured to-day when a Canadian Pacific passenger train was struck by a freight at the eastern end

was struck by a freight at the eastern end of the Prince of Wales Bridge.

The dead are John Moyles, an undertaker of Ottawa; John Anderson, Canadian Pacific Railway conductor, of Ottawa; John Derby of Hull; Miss Kehoe of Quiona, Que., and one unidentified person.

A mixup in orders, supplemented by a sharp curve, is said to have caused the wreck.

HEARTFIELD GIRLS BETTER.

married Lillian Albertson, the actress Sisters Attacked by Employee Show Rapid Recovery.

BREWSTER, N. Y., March 8.—Ruby and Amy Heartfield, the two daughters of the Rev. Frank Heartfield who were attacked by George Mead, the caretaker attacked by George Mead, the caretaker of the Howes estate, before he killed himself with dynamite, were able to sit up to-day and talk with friends. Congratulations have come to the girls and their parents from all over the county, where they are well known.

Their father said their rapid recovery was due to the outdoor life they have led the said they would be able to resume their tramps over the hills in a few days.

What remained of the body of Mead has been buried.

has been buried.

Minister's Wife Is Missing.

The police here have been asked by the to aid him in searching for his wife, who disappeared from Washington, D. C., on February 17. She had been under treat-ment there for nervous trouble. She is described as being 5 feet 4 inches tall, 44 years old, but looks younger; dark hair touched with gray, and weight about 139

Chance to See Eriesson Models. A collection of models made by Capt.

John Ericsson in the expectation that he would be invited to exhibit them at the Centennial Exposition of Isreewill be on view to-day in the rooms of the American Society of Mechanical Engineers, at 29 West Thirty-ninth street. The exhibition is open to the public.

SAYS MRS. GRACE SHOT HUSBAND FOR INSURANCE

COTTON IN TELEPHONES

Transmitter Stuffed So Victim Could Not Get Help, It Is Said-Wife a Sleep Walker?

ATLANTA, Ga., March 8.-Attorney Reuben Arnold was retained by the Grac family to-day to aid in the prosecutio of Mrs. Daisy Grace on the charge of shooting her husband, Eugene H. Grace

Mr. Arnold gave out a statement in th afternoon to the effect that Mrs. Grace drugged her husband, then shot him:
"Her action was the execution of a plot to murder her husband for his insurance

money," said the attorney. "He says she drugged him before she shot him. "Why she had even stuffed the telephone transmitter with cotton so he could not talk over it. She had stuffed the bell with the same material in order that the phone should not ring and be heard by he neighbors.

"Then she hurried off to Newnan, to his parents, to make a perfect alibi.

"The motive is perfectly clear. The woman was in straitened circumstances We can prove that she was very hard

"She tried to murder him to collect the \$27,000 on his insurance policies." Grace has reiterated several times that

he was drugged before he was shot. "That explains why he did not hear the shot or know just when it was fired," Mr. Arnold added. "She could have amputated his leg or done anything else to him while he was under the influence of the opiate

"In addition to his statement we have additional evidence which we think wil

In addition to his statement we have additional evidence which we think will show conclusively that he was drugged." In regard to the wounding of Grace being the result of a plan conceived several days before it was executed Mr. Arnold charges that all of the trips were arranged by Mrs. Grace.

"fler own journey to Newman was to prove her alibi, when the body was found. It had been given out that he was preparing to take the trip, arranged by her, to Philadelphia, so that his failure to appear at his office and other accustomed places would arouse no suspicion and cause no comment other than that he had gone on a business trip to the Pennsylvania city."

Believing death is inevitable Grace made a will at the hospital this morning leaving everything he has to his mother, and his attorneys brought suit against his wife, who is in jail, to recover the insurance policies on Grace's life which is she holds. It is said the policies for \$27,000 were taken out on Grace's life two days before he was shot. In his will Grace left his mother his real estate bought in Atlanta in the last few months, the title to which is in his name. Mrs. Grace claims she furnished the money to buy the property.

Grace is reported by a friend who

to which is in his name. Airs. Grace claims she furnished the money to buy the property.

Grace is reported by a friend who talked with him at the hospital this afternoon to have said: "If my wife shot me it must have been in a nightmare about her former husband."

This conjecture, following upon Grace's twice uttered statement that his wife did shoot him, may be significant. There is a possibility that the effect of the bullet itself upon Grace's spinal cord may have produced a temporary coma which, if he was asleep at the moment and not drugged, would have prevented his awakening at the report of the pistol.

Some investigators point to the further possibility that Mrs. Grace may have fired the shot while in a somnambulant state and neverl had realized it or suspected that her husband was otherwise than asleep or sick with a slight cold when she left him in bed and went to her train last Tuesday morning.

Meanwhile Mrs. Grace remains in the

Meanwhile Mrs. Grace remains in the Tower, asserting that she is innocent, that she loves her husband and that he was shot by a negro burglar. She is continually asking for messengers to take her love to the husband at the hospital. scheduled to be taken when

pital.

That the Opie fortune left Mrs. Daisy Opie Grace by her first husband has been dissipated is denied by Mrs. Grace.

"The Opie fortune is intact," she says, "except such sums as I gave Mr. Grace to establish him in business in Atlanta, and I was glad to give the money to him, for I love him."

Attorney Moore, representing Mrs.

Attorney Moore, representing Mrs.

She and her husband have been living on their income solely.

"No effort will be made to secure bond for Mrs. Grace unless her husband gets better, because she herself does not wish it. She says that as long as he is so critically ill and she cannot be with him she doesn't care particularly where she is.

"A negro burglar shot Grace, and we will prove it."

Mrs. Grace broke down when told her husband had made a will in favor of his mother and had sued her for the insurance policies on his life which she held.

"I wouldn't have thought he could do it." she said, "after all I have done for him, and I love him so much too."

FIELD FULLY OCCUPIED.

Extra Constitutional Reason Why Braun Won't Run for President This Year.

"Now when you get your papers can you run for President of the United States?" United States Examiner Charles Smith asked an applicant for citizenship papers in the Queens County Supreme Court, Long Island City, yesterday after-

"Sure; sure ting," replied Jacob Braun. "Sure; sure ting," replied Jacob Braun,
"Well, I want to inform you that you
can't," interposed Justice Maddox. "But
then you don't need to worry much about
it, for with Roosevelt in the race the field
at present is pretty well filled."
Braun, who lives in Jamaica, and is a
tailor, will probably get his papers.

NO PEG POSTS AT BATH BEACH.

Waldo Makes a Shakeup There After Residents Complain.

Police Commissioner Waldo yesterday ransfered Capt. Michael Devanney from transfered Capt. Michael Devanney from the Bath Beach police station to New Dorp, Staten Island, and suspended Sergt. John McAuliffe and Policeman James Robinson, who were found in the B. R. T. waiting room at Ulmer Park by Chief Inspector Schmittberger Thursday night. Capt. John J. O'Connor comes from New Dorp to Bath Beach.

A committee from the South Side Board of Trade, representing Bensonhurst and Bath Beach, recently told the Commissioner that their section of town was inadequately policed. They said a policeman was a rare sight, though the captain was on view once in a while driving about with a sergeant. Burglaries were numerous. Dr. Beitram Machat of 8679 Bay Twenty-fourth street said his house had been broken into three times during the last year, and all his silverware and wedding presents taken.

The Commisioner sent Schmittberger out Thursday night. The inspector, it is said, found only two policemen, those who were in the B. R. T. waiting room, and made his report.

In the Bath Beach police precinct there are eighty-nine miles of streets with forty-seven policemen, four lieutenants and four sergeants. About twenty-three policemen are on duty there at night. A committee from the South Side Board

Attorney for Wounded Man's Family Charges Atlanta Woman Was in Plot. Woman Was in Plot. THE PRINCES OF THE PROPERTY OF THE P

This big gun faced Grant at Vicksburg. The Confederates affectionately called it "Whistling Dick," as it shrieked death at the Union gunboats on the Mississippi. The photograph you see here has never before been shown to the public. The United States Government did not know that it existed. Lost for fifty years, it was at last recovered by the Review of Reviews Company and now you can see it, beautifully reproduced in the Photographic History of the Civil War. Book Store, (Old Building.) There also you look into Vicksburg, the beleaguered city, the Gibraltar of the Confederacy. You see the inside of the Confederate defenses. You get a glimpse into the mystery and romance of the ranks in blue and gray as you gaze at this gunner, his mighty gun and his comrades. Yet these photographs taken along the Mississippi, inside the Confederate lines, form but a small part of the tremendous panorama of both sides of the conflict opened before you in

3,800 Long Buried Photographs

Taken During Our Civil War

Fifty years have come and gone since Mathew Brady, foremost photographer in the United States, took his cameras and his men and set out to get the most precious historical documents of our history. Under protection of Allan Pinkerton of the United States Secret Service he followed the armies and navies into battle, into camp, into hospital, into fort and prison-and everywhere the eye of his all-seeing camera preserved the one undying witness of our great war. A few other daring spirits followed him; some on the Confederate side slipping into the Union ranks to take negatives as secret information for their commanders. Some followed Sherman on his March to the Sea. Everywhere, at constant risk of life, suffering incredible hardships, the camera man followed the firing line.

Lost for 50 Years—Just Found Again

Peace came, and in the confusion of reconstruction the photographs were lost. Brady died in poverty and despair. Some of the negatives were secured by the Government and locked up in the War Department'as part of our Secret Records. Some went to England into the library of Charles Dickens, Some went to the Far West with our pioneers. Some went to old trunks and packing cases, to garret and barn. Fifty years they lay buried and the American people did not know that they existed. Now, at last, they have been recovered by the Review of Reviews Company and gathered together in the ten big volumes of the

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